

Remarks

Claims 1-43 are pending. Claims 11-12 are newly amended. Claims 13-43 are newly added. Support for the claim amendments can be found throughout the specification. No new matter has been entered.

Claim Rejections - 35 USC 102

Claims 9-12 are rejected under 102(a)/(b) and (e) as being anticipated by Ralph et al. WO 98/24935 and US6,190,857, respectively.

Anticipation requires that the purported prior art reference disclose each and every limitation of the claim. *Atlas Powder Company et al. v. IRECO, Incorporated et al.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999). Applicant contends that U.S. Pat. No. 6,190,857 to Ralph et al. (hereinafter for purposes of this Amendment and Reply unless otherwise stated “Ralph et al.”) does not teach each and every limitation of the instant claims as newly amended.

Applicant has newly amended claims 11 and 12 to recite that the claimed methods encompass a comparison between subjects with and without heart disease, as opposed to the previously claimed method which encompassed a comparison between subjects with and without a specified disease. Ralph et al.’s teaching of the differential expression in cancer patients vs. healthy subjects of UC331 and UC332 transcripts, which are inherently expressed in blood and heart tissue, is not encompassed by the instant claims as newly amended. Ralph et al. does not teach every limitation of the instant claims which require a comparison between subjects with heart disease and subjects without heart disease, and therefore Ralph et al. is not an anticipatory reference. Reconsideration and withdrawal of the instant rejection is respectfully requested.

Conclusion

Applicant submits that all claims are allowable as written and respectfully request early favorable action by the Examiner. If the Examiner believes that a telephone conversation with Applicant's attorney/agent would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned attorney/agent of record.

Respectfully submitted,

Date: Jun 18, 2008

Amy DiClomp 5489 for
Name: Kathleen M. Williams
Registration No.: 34,380
Customer No.: 21874
Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, MA 02205
Tel: 617-239-0100